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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,511	07/29/2005	Pascal Agin	Q83285	4050
23373 7590 03/09/2009 SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				
EXAMINER BOKHARI, SYED M				
ART UNIT		PAPER NUMBER		
2416				
MAIL DATE		DELIVERY MODE		
03/09/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/509,511

Applicant(s)

AGIN ET AL.

Examiner

SYED BOKHARI

Art Unit

2416

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☒ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Kwang B. Yao/
Supervisory Patent Examiner, Art Unit 2416

/Syed Bokhari/
Examiner, Art Unit 2416

Continuation of 11, does NOT place the application in condition for allowance because: Claims 3, 6-8, 13 and 16-18 have been rejected because of the amendment of each claim has been done by replacing the term "comprising" with "consisting", whereas the term "consisting" is not supported by the specification. The replacement of the term "comprising" with "consisting" change the scope of the above claims. Applicant states in the remark regarding claim 3, "the support for claim 3 is found in the specification, for example, on page 8, lines 15-18". Examiner respectfully disagrees. Specification on page 8, lines 15-18 states "In the example considered here, and for a common value of Toom of the order of 0.8 ms, the present invention proposes that TGL be made greater than 11, i.e. that TGL be equal to one of the values 11, 12, 13, 14, since in the UMTS the maximum value of TGL is 14". It clearly states "one of the values 11, 12, 13, 14". Therefore, the original claim with "comprising of the values 11, 12, 13, 14" is as per specification. Whereas the amendemnt of the claim 3, "consisting of the values 11, 12, 13, 14", clearly requires all values (i.e. 11, 12, 13, and 14) and not to one of the values. Regarding claim 6, the specification on page 8, lines 21-22 states "The TGPL value may preferably be made equal to one of the values 13, 14, 15 or 16". It states "one of the values 13, 14, 15 or 16". Therefore, the original claim with "comprising of the values 13, 14, 15 or 16" is as per specification. Whereas the amendemnt of the claim 3, "consisting of the values 11, 12, 13, 14", clearly requires all values (i.e. 13, 14, 15 or 16) and not to one of the values. Similarly regarding claims 7-8, on page 8, lines 23-24 states "Examples are given in the table below". The table indicating the TGPL and TGL values. For example for TGPL value 13, TGL has any one of the values 5, 7, 10 or 14. Applicant states regarding claim 1, "Steudle does not teach or suggest choosing a compressed mode configuration from a set of reference compressed mode configurations". Examiner respectfully disagrees. Steudle teaches "Steudle does not teach or suggest choosing a compressed mode configuration from a set of reference compressed mode configurations". Paragraph 0014 lines 1-2, recites "the invention is based on the idea that specifically in measurements performed in compressed mode".